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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/532,034	03/21/2000	Jay H. Connelly	042390.P8388	6937

7590 02/01/2007  
James Y Go  
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EXAMINER
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BLAIR, DOUGLAS B

ART UNIT	PAPER NUMBER
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2142

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/532,034	<b>Applicant(s)</b> CONNELLY, JAY H.	
	<b>Examiner</b> Douglas B. Blair	<b>Art Unit</b> 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,10-12,14-19 and 21-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,10-12,14-19 and 21-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/13/2006 has been entered.
2. Claims 1-2, 4-8, 10-12, 14-19, and 21-32 are currently pending in this application.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 4-8, 10-12, 14-19, and 21-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,088,722 to Herz et al. in view of U.S. Patent Number 6,357,042 to Srinivasan et al..
5. Herz teaches the invention as claimed (As in exemplary claim 28) including a system comprising: a broadcast system; and one or more client systems coupled to the broadcast system; wherein the broadcast system is coupled to broadcast meta-data to a plurality of client systems, the meta-data including titles (col. 14, lines 24-64) of specific pieces of broadcast programming content being considered for future broadcast, but which have not yet been scheduled in a future

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broadcast, the meta-data further including sets of descriptors and/or attributes describing the specific pieces of broadcast programming content (col. 14, lines 24-64, the clips presented for the user to rate); wherein the plurality of client systems are coupled to rate in response to a content rating table one or more of the specific pieces of broadcast programming content described by the meta-data, the content rating table generated using the meta-data and containing ratings derived from observations of data pieces of broadcast programming content having similar descriptors and/or attributes to the descriptors and/or attributes included in the meta-data that have been previously accessed via that client system (col. 12, lines 26-48 and col. 14, lines 24-64); wherein the one or more client systems are coupled to transmit to the broadcast system the ratings (col. 14, lines 17-23); wherein the broadcast system is coupled to select a portion of the specific pieces of broadcast programming content in response to the ratings received for the plurality of client systems (col. 22, line 64-col. 23, line 38); and wherein the broadcast system is further coupled to broadcast the selected portion of the specific pieces of broadcast programming content (col. 22, line 64-col. 23, line 38); however Herz does not explicitly teach **broadcasting** meta-data to the client in order to rate content.

Srinivasan teaches the concept of broadcasting meta-data in video data stream (col. 20, lines 15-53).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Herz regarding the scheduling of data in a broadcast system with the teachings of Srinivasan regarding the concept of broadcasting meta-data in a video stream because Herz already teaches broadcasting so the teachings of Srinivasan provide a

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way for Herz to deliver information to set top boxes without having to modify the concepts taught by Herz.

6. As to claims 2, 15, and 25, Herz teaches a machine readable medium and method wherein the selected portion of the plurality of pieces of broadcast programming content that are broadcast are pieces of broadcast programming content having higher content ratings than a remaining portion of pieces of broadcast content that are not selected (col. 22, line 64-col. 23, line 38).

7. As to claims 4, 12, 16, and 23, Herz teaches a system able to receive a broadcast schedule of the second plurality of pieces of broadcast programming content prior to selectively receiving the portion of the second plurality of pieces of broadcast programming content (col. 47, lines 9-30).

8. As to claims 5 and 17, Herz teaches a system able to broadcast a broadcast schedule of the meta-data prior to broadcasting the meta-data to the plurality of client systems (col. 47, lines 9-30).

9. As to claim 6, Herz teaches a method wherein broadcasting the selected portion of the plurality of pieces of broadcast programming content to the plurality of client systems comprises broadcasting one of the plurality of pieces of broadcast programming content having a higher rating prior to broadcasting one of the plurality of pieces of broadcast programming content having a lower rating (col. 22, line 64-col. 23, line 38).

10. As to claims 8, 11, 19, 22, and 27, Herz teaches receiving a meta-data broadcast schedule broadcast by the server system, the client system activated in response to the meta-data broadcast schedule (col. 47, lines 9-30).

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11. As to claims 29-32, Herz teaches a system wherein each of the plurality client systems is coupled to selectively receive and store a portion of the selected portion of the plurality of pieces of broadcast programming content in response to a content rating table associated with each respective one of the plurality of client systems (col. 47, lines 9-30).

### ***Response to Arguments***

12. Applicant's arguments filed 11/13/2006 have been fully considered but they are not persuasive. The applicant argues that Herz does not teach or disclose or suggest that future movies are automatically downloaded to a user's STB. As pointed out before, Herz sends clips to rate content and create a user profile. The user profile is shown to be used in Figure 2 and in col. 9, lines 42-col. 10, line 3 to determine the broadcast schedule for virtual channels. The virtual channels contain customized broadcast content. The actions by Herz are considered automatic because they are not disclosed as requiring any user interaction to take place.

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B. Blair whose telephone number is (571) 272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Douglas Blair

DBB



ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER